

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: CITY OF DETROIT,	.	Docket No. 13-53846
MICHIGAN,	.	
	.	Detroit, Michigan
	.	June 26, 2014
Debtor.	.	1:15 p.m.
.		

EXCERPT OF HEARING RE. (#5259) STATUS CONFERENCE ON PLAN
CONFIRMATION PROCESS (RE. FIFTH AMENDED ORDER
ESTABLISHING PROCEDURES, DEADLINES AND HEARING DATES
RELATING TO THE DEBTOR'S PLAN OF ADJUSTMENT. STATUS
HEARINGS REGARDING PLAN CONFIRMATION PROCESS; (#5285)
CORRECTED MOTION TO QUASH SYNCORA'S SUBPOENA TO
DEPOSE ATTORNEY GENERAL BILL SCHUETTE FILED BY
INTERESTED PARTY BILL SCHUETTE; (#5250) MOTION OF THE
CITY OF DETROIT FOR SITE VISIT BY COURT IN CONNECTION
WITH THE HEARING ON CONFIRMATION OF THE CITY'S PLAN OF
ADJUSTMENT FILED BY DEBTOR IN POSSESSION CITY OF
DETROIT, MICHIGAN; (#5300) JOINT MOTION TO QUASH
SUBPOENAS DUCES TECUM FILED BY INTERESTED PARTIES
A. PAUL AND CAROL C. SCHAAP FOUNDATION, CHARLES
STEWART MOTT FOUNDATION, COMMUNITY FOUNDATION FOR
SOUTHEAST MICHIGAN, HUDSON-WEBBER FOUNDATION, MAX M
AND MARJORIE S. FISHER FOUNDATION, MCGREGOR FUND,
THE FORD FOUNDATION, THE FRED A. AND BARBARA M. ERB
FAMILY FOUNDATION, W.K. KELLOGG FOUNDATION, WILLIAM
DAVIDSON FOUNDATION; (#5478) MOTION OF THE GENERAL
RETIREMENT SYSTEM OF THE CITY OF DETROIT TO
DESIGNATE AND DETERMINE ADDITIONAL LEGAL ISSUE
REGARDING METHODOLOGY FOR ASF RECOUPMENT FROM
RETIREEES FILED BY CREDITOR GENERAL RETIREMENT
SYSTEM OF THE CITY OF DETROIT; (#5442) MOTION FOR
PROTECTIVE ORDER CITY OF DETROIT'S MOTION FOR
ENTRY OF A PROTECTIVE ORDER STRIKING SYNCORA'S
DEMAND IN ITS RULE 30(b)(6) DEPOSITION NOTICE
FOR THE PERSONAL FINANCIAL INFORMATION OF ALL CITY
RETIREEES FILED BY DEBTOR IN POSSESSION CITY OF
DETROIT, MICHIGAN; (#5436) MOTION TO COMPEL FULL AND
FAIR RESPONSES TO SYNCORA'S INTERROGATORIES FILED BY
INTERESTED PARTIES SYNCORA CAPITAL ASSURANCE, INC.,
SYNCORA GUARANTEE, INC.
(OPINION OF THE COURT)
BEFORE THE HONORABLE STEVEN W. RHODES
UNITED STATES BANKRUPTCY COURT JUDGE

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Michigan.

THE COURT: All right. It appears that everyone is present. Addressing first the attorney general's motion to quash the subpoena that was issued to him by Syncora, the Court concludes that this motion should be granted. The Court concludes that the attorney general's opinion that is the subject of that subpoena is for all functional purposes the equivalent of a brief, and it will be given weight by the Court only to the extent that the facts on which it relies are established in the evidence and the law on which it relies is persuasive.

In weighing any settlements in the case, including what's been called the grand bargain here, the Court will weigh the merits of the opposing facts and law and not take into account the position or authority of the people who may have taken positions on one side or the other of the issues. So in these circumstances, there is no basis for questioning the attorney general regarding his legal opinion, so that motion is granted.

Addressing next the foundations' motion to quash the subpoenas that were issued to them, the Court again concludes that this motion should be granted. The Court concludes that none of the 30(b)(6) subjects and none of the documents that are sought from the foundations are relevant to or even

1 arguably relevant to the issues of whether the plan is
2 discriminatory or whether it is unfairly discriminatory, the
3 best interest of creditors or even the extent to which the
4 so-called grand bargain settlement protects the art of the
5 city. Accordingly, that motion is granted.

6 Now, having said that, it was mentioned during
7 argument that Syncora is interested in information relating
8 to the foundations' ability to pay. That is a relevant
9 subject on which the Court would allow limited discovery. It
10 is not, however, as far as the Court could determine, a part
11 of the discovery that was, in fact, served. The Court hopes
12 that Syncora's counsel and counsel for the several
13 foundations can work out a streamlined and efficient way for
14 Syncora to get the information it needs to evaluate this
15 issue of their ability to pay.

16 In the motion to quash the foundations' requested
17 costs, the Court will ask counsel for those foundations to
18 file a separate motion for costs if they wish to pursue that.

19 Turning now to the motion for a site visit, the
20 Court is inclined to exercise its discretion to grant that
21 motion and to go on a site inspection as requested. The
22 Court believes it is likely that the value of such an
23 inspection would be outweighed by the effort it would take to
24 organize and execute the tour, so it will take, however,
25 further discussion and planning here in the meantime, so,

1 while I'm not prepared yet to enter an order granting the
2 motion, I do think it is appropriate to move the discussions
3 forward. And so to that end, I am going to ask the creditors
4 who are objecting to the plan at this point to nominate one
5 or two of them to attend a meeting with one or two
6 representatives of the city, me, and the Marshals Office to
7 discuss and conclude the details necessary to effectuate this
8 site inspection. And if the creditors are unable to agree
9 upon one or two representatives for that purpose, the Court
10 will identify someone for you. So I think that's as much on
11 that motion as we can do at this point in time.

12 Turning then to the city's motion for a protective
13 order regarding the retirees' personal information, the Court
14 did state on the record earlier that it would find that
15 Syncora had withdrawn this request based on the Court's
16 ruling that the retirees' hardships was not at all relevant
17 to the issue of either unfair discrimination or fair and
18 equitable. And just to elaborate on that a bit, as the Court
19 stated earlier, it is unaware of any case law interpreting
20 Section 1129 that holds that it is appropriate to consider
21 the relative hardships of creditors in evaluating the issues
22 under that section of the Bankruptcy Code. And, indeed, as
23 the Court suggested in the hearing, if that door were opened
24 here and that subject were relevant here, it would literally
25 open up every single retiree as well as Syncora itself to

1 these same inquiries about hardship, assets, income,
2 financial position, and that would be an extraordinarily
3 burdensome and invasive process for all concerned.

4 Turning finally to Syncora's motion to compel
5 complete and truthful answers to the interrogatories, the
6 Court is, likewise, going to deny this motion but with a
7 finding on the record here that to the extent that any answer
8 to any of the interrogatories as to which Syncora seeks a
9 more complete answer is incomplete, it's because the city
10 doesn't know the answer.

11 Let's turn our attention finally then to the two
12 status conferences.

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WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett

June 30, 2014

Lois Garrett